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Docket No. 4380 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Russell G. Higuchi

Serial No.: 08/968,208

Filed: November 12, 1997

For: **Instrument for Monitoring Nucleic
Acid Amplification**

) Group Art Unit: 1743
)

) Examiner: Jeffrey R. Snay
)

) For hand-delivery to Examiner
) Snay or the Group receptionist on
) or after December 29, 2003
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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Further to the Request for Continued Examination, Preliminary Amendment, Declaration under 37 CFR 1.131, and Information Disclosure Statement submitted on or about October 24, 2003, Applicant submits herewith information (listed on the attached Form PTO-1449) which may be material to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 CFR §1.56. This Information Disclosure Statement, as far as is known to the undersigned, is filed before the mailing date of a first Office action after the filing of a request for continued examination under §1.114.

While the information and references may be "material" pursuant to 37 CFR §1.56, this is not intended to constitute an admission that any of them is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR §1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR §1.56(a) exists. It is submitted that the Information Disclosure Statement is in

compliance with 37 CFR §1.98 and MPEP §609 and the Examiner is respectfully requested to consider the listed references.

Respectfully submitted,

Date: Dec. 22, 2003

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Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Application Number	08/968,208
				Filing Date	November 12, 1997
				First Named Inventor	Russell G. Higuchi
				Group Art Unit	1743
				Examiner Name	Jeffrey R. Snay
Sheet	1	of	1	Attorney Docket No.	4380 US

U.S. PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ² (if known)			

FOREIGN PATENT DOCUMENTS								
Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind Code ⁵ (if known)				

OTHER ART - NON PATENT LITERATURE DOCUMENTS				
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.		T ²
	51	Appeal Brief submitted by Bio-Rad to the Japanese Patent Office on October 30, 2003 seeking invalidation of counterpart Japanese Patent No. 3136129 (English translation only)		
	52	Full copy of "Report on Evolution Research," Department of Biochemical Kinetics, Max Planck Institut für Biophysikalische Chemie, allegedly published April 18-20, 1991, submitted as Exhibit 8 in item 51 above, portions of which were cited in this application as item 41 on the Form 1449A submitted to the Patent Office on or about Oct. 24, 2003		

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² See attached Kinds of U.S. Patent Documents. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. 62170_1